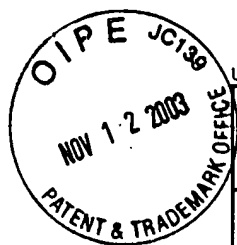


#9



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
 UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

A882688US

First Named Inventor: THOMAS H. STOCKMANN Art Unit: 3652

Application Number: 09/873,243

Examiner: TRAN, THUY VAN

Filed: JUNE 5, 2001

Title: HYDRAULIC PLATFORM LIFT INCORPORATING POSITIVE DISPLACEMENT VALVE, AND POSITIVE DISPLACEMENT VALVE FOR HYDRAULIC PLATFORM LIFT

Attention: Office of Petitions
Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
 Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity - fee \$ 55.00 (37 CFR 1.17(l)). Applicant claims small entity status.
 See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
RESPONSE TO OFFICE ACTION (identify the type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

11/13/2003 SDIRETAL 00000019 071750 09873243

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OFFICE OF PETITIONS

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Nov. 4, 2003.
Date

D. Doak Horne
Signature

(403) 298-1994
Telephone Number

D. DOAK HORNE
Typed or printed name

33,105
Registration Number, if applicable

SUITE 1400, 700 - 2ND ST. S.W.
Address

CALGARY, AB T2P 4V5 CANADA
Address

- Enclosure ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☒ RESPONSE TO OFFICE ACTION

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Signature

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Nov. 4, 2003
Date


Signature

33,105
Registration Number, if applicable

D. DOAK HORNE
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

PLEASE SEE ATTACHED.

FULL REASONS WHY "DELAY" WAS UNAVOIDABLE
IN THE CIRCUMSTANCES.

(Please attach additional sheets if additional space is needed.)

I received the Examiner's Detailed Action dated February 21, 2003, advising that the previous Response filed October 29, 2002 was non-responsive due to failure to elect.

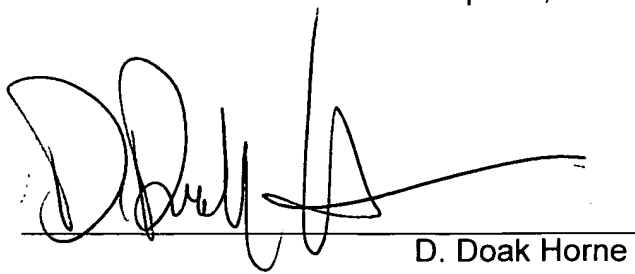
Upon review of such Office Action, I noted that the Examiner's allegation that the applicant had not previously elected was completely unfounded – the Applicant's election having already originally been made in the Applicant's response filed October 29, 2002 (copy attached) where it is clearly stated (see bottom of page 4 and top of page 5) as follows:

"While it is submitted that above amendments are sufficient to overcome the examiner's election requirements, pursuant to 37 C.F.R. 1.143, in the event the examiner should refuse to withdraw the election requirement, the Applicant elects, on a without-prejudice basis, claims 13-20 for further prosecution."

I called Examiner Tran on March 11, 2003, as I believed the Action was issued in error. Mr. Tran agreed that the Action requiring restriction was in error, and also agreed to examine ALL claims to see if restriction is still needed. If not, he would submit an Action on ALL claims. In this response, I enclose, for your review, a copy of my memo-to-file and hand written note from which the memo-to-file was prepared, which I made immediately after speaking with Examiner Tran on Tuesday, March 11, 2003.

In view of the above and in view of Examiner Tran's statement to me, I did not believe that I needed to respond to the Action dated February 21, 2003. It was not until October 6, 2003 when I received an Abandonment notice that I was informed that a response to the Action dated February 21, 2003 should have been filed.

In view of the above, the "delay" in responding was due to being misled by the USPTO on what was an improperly-issued Office Action in the first place, and accordingly the "delay" was unavoidable.



D. Doak Horne
Registration No. 33, 105

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D. Doak Horne LLB, P. Eng.
Direct (403) 298-1994
Assistant (403) 298-1997
doak.horne@gowlings.com

Memorandum

To File
From D. Doak Horne LLB, P. Eng.
Date March 11, 2003
Re Telephone conversation with Examiner Tran
File Number A882688US

He agreed that Office Action requiring restriction was in Error.

He agreed to examine ALL claims to see if restriction still needed, and if not, would submit an office action in all claims.

MEMO TO: FILE
The Examiner Tran Tues, Mar 11/03.
He agreed that Office Action requiring
restriction was in Error.
He agreed to examine ~~all~~ claims
to see if restriction still needed, and
if not, would submit an office
action on all claims. A882688US

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Patent Application of STOCKMANN, Thomas H.:

Serial No. : 09/873,243 Group Art Unit : 3652
Filed : June 5, 2001 Examiner : Thuy V. Tran
For : HYDRAULIC PLATFORM LIFT INCORPORATING POSITIVE
DISPLACEMENT VALVE, AND POSITIVE DISPLACEMENT
VALVE FOR HYDRAULIC PLATFORM LIFT
Date : October 25, 2002 Docket No. : A882688US

The Honorable Commissioner of Patents
and Trademarks,
WASHINGTON, D.C.
UNITED STATES OF AMERICA 20231

COPY

Sir:

Response to Official Action dated October 1, 2002 .

In response to the Official Action dated October 1, 2002, and further to the undersigned's discussion with Examiner Tran on October 17, 2002 regarding possible amendment to the claims to avoid the restriction requirement, kindly amend this application as follows:

IN THE CLAIMS

Please amend sub-combination claims 13 -20 as set out below :

13. (Amended) A ~~p~~Positive displacement means valve for use in a hydraulic circuit, comprising:

a pair of longitudinally-moveable, spaced-apart pistons, each operatively connected by longitudinal shaft means coupled to each other so that movement of one piston

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causes an equal movement of the other, each situate within a corresponding cylinder member, said cylinder members arranged in juxtaposed relation to each other, each cylinder member having mutually opposite ends and an aperture proximate each of said opposite ends so as to permit ingress and egress of pressurized hydraulic fluid.

14. (Amended) *The positive displacement valve means as claimed in claim 13,*

said pair of longitudinally-moveable, spaced-apart pistons operatively coupled to each other via longitudinal shaft means;

said shaft means extending perpendicularly outwardly from each of said pistons from opposite sides thereof and centrally located within each of said cylinder members.

15. (Amended) *The positive displacement valve means as claimed in claim 13,*

said pair of pistons comprising a first and second piston,

said first and second piston each having a pair of opposite sides and operatively coupled to each other by shaft means, said shaft means extending perpendicularly outwardly from said pair of opposite sides of said first piston and from only one side of said second piston.

16. (Amended) *The positive displacement valve means as claimed in claim 13,*

said aperture for ingress of hydraulic fluid into the cylinder member containing said second piston situate on an

end of the cylinder member proximate the side of said second piston not having shaft means extending therefrom.

17. (Amended) The positive displacement valve means as claimed in claim 13, said cylinder members each having mutually opposite opposed ends, wherein said cylinder members each possess piston phasing means proximate one end of each of said pair of cylinder members.

18. (Amended) The positive displacement valve means as claimed in claim 17, said cylinder members each having a longitudinal axis, wherein said piston phasing means comprises a pair of apertures, spaced apart from each other on said longitudinal axis, with said aperture of said pair of apertures most proximate said one end of said cylinder member being larger in area than said other of said apertures.

19. (Amended) The positive displacement valve means as claimed in claim 13, said cylinder members each having a pair of mutually opposite opposed ends, wherein said cylinder members each possess piston phasing means proximate each end of said mutually opposite ends.

20. (Amended) The positive displacement valve means as claimed in claim 19, said cylinder members each having a longitudinal axis, wherein said piston phasing means comprises a pair of apertures, spaced apart from each other on said longitudinal axis, with said aperture of said pair of apertures most proximate said one end of said cylinder member being larger in area than said other of said pair of apertures.

REMARKS

Main "sub-combination" claim (Claim 13) has been amended to identically correspond in scope to the corresponding portion of the sub-combination contained in "combination" claim 1, by amendment to recite "means" as opposed to the former wording "valve", and deleting the wording "connected by longitudinal shaft means" and replacing such wording by "coupled" as identically recited in the "sub-combination" portion in claim 1. By virtue of such amendments to claim 13, dependent claims 14-20 have been modified to maintain consistent terminology.

It is respectfully submitted that claim 1 is, in effect, dependent from newly amended claim 13, as all of the elements of claim 13 are contained now within claim 1, with claim 1 possessing further limitations.

The combination as claimed (claim 1) does now require all the elements of the sub-combination as presently now claimed in claim 13, particularly due to the elimination of the former recital in claim 13 regarding "longitudinal shaft means".

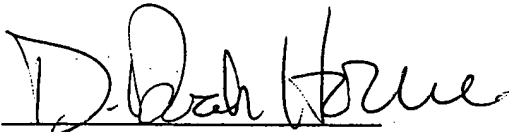
In light of the above amendments, the Applicant respectfully requests withdrawal of the requirement for restriction, and in particular submits in light of the amendments to sub-combination claim 13 [as generally indicated would be acceptable by Examiner Tran to avoid the restriction requirement in the telephone discussion with the Undersigned attorney for the Applicant on October 17, 2002], that the restriction requirement with respect to the two sets of claims 1-12, 21 and 13-20 need no longer be maintained.

While it is submitted that above amendments are sufficient to overcome the examiner's election requirements, pursuant to 37 C.F.R. 1.143, in the event the examiner

should refuse to withdraw the election requirement, the Applicant elects, on a without-prejudice basis, claims 13-20 for further prosecution.

Favourable re-consideration of this application is earnestly solicited.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "D. Doak Horne", written over a horizontal line.

D. Doak Horne
Reg. No.33,105

Agent for the Applicant
Date: October 25, 2002

DDH:mg

enclosures

/878639.1/
